

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Dan E. Durell,

File No. 23-cv-2067 (ECT/DLM)

Plaintiff,

v.

**ORDER ACCEPTING REPORT
AND RECOMMENDATION**

Matt Kensy, Johnson, and DeRungs,
Custodial Maintenance Services Manager,
each being sued in his individual capacity
while acting in his official capacity,

Defendants.

Magistrate Judge Douglas L. Micko issued a Report and Recommendation on August 17, 2023. ECF No. 5. No party has objected to that Report and Recommendation, and it is therefore reviewed for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). Finding no clear error, and based upon all of the files, records, and proceedings in the above-captioned matter, **IT IS ORDERED THAT:**

1. The Report and Recommendation [ECF No. 5] is **ACCEPTED**;
2. The action is **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute; and
3. Plaintiff's application to proceed in District Court without prepaying fees or costs [ECF No. 2] is **DENIED AS MOOT**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: September 14, 2023

s/ Eric C. Tostrud

Eric C. Tostrud

United States District Court